

REMARKS

The herein Amendment is responsive to the Office Action dated April 29, 2005, in which claims 1-12, 20, 24-32, 38-41, 43-48, 50-52, 54-57 and 81 were rejected under 35 U.S.C. § 102(b) as being anticipated by Fulton, et al.; claims 1 and 3 were rejected under 35 U.S.C. § 102(b) as being anticipated by Howard; and claims 14-18, 34-37, and 58-61 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fulton, et al. in view of Boisvert. By this Amendment, independent claims 1, 24, and 44 have been amended to overcome the prior art rejections. The withdrawn claims have been cancelled. Claims 1-13, 15-18, 24-32, 35-48, 50-57, 59-61 remain in the application.

The language of the independent claims, as currently amended, recites the unique, patentable features of this invention. Specifically, amended claim 1 particularly points out and distinctly claims the unique placement of bladder means positioned within the receptacle to clean bodily waste. The claim recites that the bladder means is positioned within the second compartment for storage of waste cleaning fluid and fill means permits the flow of waste cleaning fluid into the bladder means. Fluid path means directs the waste cleaning fluid from the bladder means to the first compartment, with the fill means efficiently providing the waste cleaning fluid directly to the bladder means via the fluid means. Finally, the claim specifically states that the impelling means allows the waste cleaning fluid to travel under pressure from the bladder means into the first compartment, the waste cleaning fluid from the bladder means providing the sole source of fluid to clean the bodily waste. Language similar to the additions to claim 1 has been included in remaining independent claims 24 and 44.

Thus, the independent claims, as now amended, provide for a self-cleaning waste receptacle which is relatively simple in design and construction, yet most effective in operation. The use of the bladder means within the second compartment ensures for a readily accessible,

easily replenishable container which maintains a dry and sanitary environment within the receptacle itself. This condition is maintained by providing new supplies of waste cleaning fluid directly to the bladder means via the fluid path means. The self contained bladder means provides the sole source of cleaning fluid for the system. The bladder means also provides an enclosed container for the fluid. This prevents fluid from sloshing around within the receptacle when it is to be moved, thereby enhancing the ease of portability of the unit.

The cited prior art, either alone or in combination, fails to show these features in the context of the entirety of the system. The prior systems also fail to achieve the advantages of effectiveness, efficiency, portability and sanitation of the subject invention as now claimed.

In view of this Amendment, the sole relevant rejection remaining is the 35 U.S.C. § 103(a) rejection, in which Fulton et al. is applied in view of Boisvert. It is respectfully submitted that the claims, as amended, overcome this rejection.

While Fulton discloses a self-contained toilet, it fails to disclose or contemplate the use of a bladder as the storage component for waste cleaning fluids. On the contrary, Fulton discloses a fairly complicated reservoir type system, in which a flush pump is used to suction fluid from the reservoir through a discharge line.

Fundamentally the Fulton system in no way contemplates the use of a bladder and so there is insufficient basis to suggest that a bladder could simply be used in the system. In addition, it is not understood how a bladder could even operate in this system. It would take an inordinate amount of redesign and modification, far in excess of what would be obvious to one with ordinary skill in the art, to convert the system of Fulton into one which contains a storage bladder, with the fill means, fluid path means, and impelling means as now recited in the subject independent claims, to create a workable bladder-type storage system in the system disclosed in Fulton. The mere teaching from a secondary reference that bladder type containers are used to

store fluid does not provide legitimate license to simply insert a bladder component in a system or in any prior system associated with this art, which does not contemplate its use and which is not adaptable to accept it without major modifications beyond the scope of the patent. As a practical matter, the use of a bladder in Fulton, if it somehow could be engineered in to the system, would interfere with its other components and the operation of the unit itself.

A proposed combination of references cannot change the principle of operation of the primary reference or make the device described in the reference inoperable for its intended purpose. “If the proposed modification or combination of the prior art changes the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. In Re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)”. MPEP § 2143.02. Moreover an obviousness rejection is inappropriate where the:

suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate. 270 F.2d at 813, 123 USPQ at 352.

It is the position of applicants herein, that the proposed Fulton/Boisvert combination would result in precisely the drastic redesign and change in operation which the courts have rejected.

Moreover, the teaching of Boisvert is not even applicable to the self-contained portable receptacle of the subject application. Boisvert discloses the use of a bladder in a supplemental vessel to provide one of several sources of fluid to a stationary toilet system. As applicants understand it, Boisvert provides water to a toilet through a source of water 22 as well as supplemental fluid from vessel 12, via bladder 24. It is submitted that this teaching, in and of itself, does not provide the appropriate basis such that one with ordinary skill in the art would

reasonably make the decision to use this auxiliary bladder system as a primary bladder reservoir in Fulton, especially, as discussed above, since neither Fulton nor any other related prior art even contemplates the use of such a bladder.

To further distinguish the claims of the application from the cited prior art, independent claims 1, 24, and 44 have been amended to specifically point out that waste cleaning fluid is directed from the bladder means via fluid path means, the fill means providing the flow of waste cleaning fluid through the fluid path means to the bladder means and that the waste cleaning fluid from the bladder means provides the sole source of fluid to clean bodily waste from the first compartment. This language clearly states that the function of the bladder means of the present invention is different from the teaching of Boisvert. It also serves to more clearly distinguish the bladder system of the subject invention from the reservoir system in Fulton.

It is significant to emphasize that nothing in the prior art shows or contemplates the use of a bladder-type system employed with a portable bodily waste receptacle. No such system was known before or since the Fulton patent was issued, over thirty years ago. And it appears that the only marginally relevant teaching of the use of a bladder in sanitary systems during the intervening period is found in Boisvert, which, as previously discussed, truly fails to provide the requisite nexus to obviate the subject claimed invention.

The obviousness standard in this type of situation has clearly been defined:

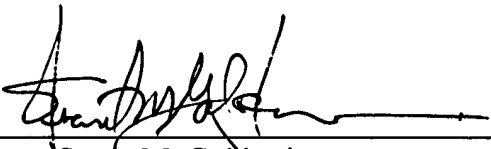
Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. “The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art.” (citations omitted) (emphasis provided) MPEP § 2143.01.

Applicants submit that none of the prior art teaches or suggests the use of a bladder system in a waste cleaning receptacle, as currently claimed. There is thus no basis for the contention that it would be obvious to one with ordinary skill in the art to simply modify the known receptacle of Fulton with the currently claimed bladder means and components of this system. In view of the changes made to the language of the claims and the herein arguments, reconsideration of the rejection under 35 U.S.C. § 103(a) is requested.

It is thus submitted that the sole independent claims to this application, claims 1, 24, and 44, are now allowable, as are their corresponding dependent claims. The application itself is now in condition for allowance.

If the examiner, upon review of the herein Amendment, believes that additional changes may be appropriate to advance the prosecution of this application, he is kindly requested to contact the undersigned.


Respectfully submitted
HOLLSTEIN KEATING
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By: 
Stuart M. Goldstein

Dated: May 13, 2005

CERTIFICATION OF SERVICE

I certify that the Amendment After First Office Action was sent to Examiner Charles Phillips, Art Unit 3751, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, via Express Mail # EV 578003224 US on My 13, 2005.



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